

## Message Text

CONFIDENTIAL

PAGE 01 BERN 02462 140927Z

15

ACTION EUR-12

INFO OCT-01 ISO-00 SCS-03 L-03 JUSE-00 TRSE-00 SEC-01

SCA-01 SS-15 NSC-05 EB-07 SP-02 CIAE-00 INR-07

NSAE-00 /057 W

----- 043621

P 131701Z JUN 75

FM AMEMBASSY BERN

TO SECSTATE WASHDC PRIORITY 822

C O N F I D E N T I A L BERN 2462

E.O. 11652: GDS

TAGS: PFOR, CFED (JUDICIAL ASSISTANCE TREATY) SZ

SUBJECT: JUDICIAL ASSISTANCE TREATY

REF: BERN 2420

1. AMBASSADOR, ACCOMPANIED BY DCM AND EMBOFF RAND, MET WITH FONMIN GRABER JUNE 13. ALSO PRESENT WERE CHARLES MULLER, CHIEF OF EUROPE AND NORTH AMERICA SECTION OF THE FEDERAL POLITICAL DEPARTMENT (FPD), AND JEAN MONNIER, CHIEF INTERNATIONAL PUBLIC LAW SECTION (FPD).

2. AMBASSADOR MADE PRESENTATION ALONG FOLLOWING LINES:

A) TREATY, WHICH HAS REQUIRED SEVERAL YEARS OF WORK, EXEMPLIFIES THE DESIRE OF OUR TWO COUNTRIES TO WORK TOGETHER FOR THE COMMON GOOD IN COMBATING CRIME.

B) WE HAVE COME DOWN NOW TO ONE FINAL POINT INVOLVING EVIDENTIARY PROCEDURES, WHICH IN SOME RESPECTS DIFFER AS BETWEEN SWISS AND U.S. JURISDICTIONS. WE HAVE SUGGESTED AN EXCHANGE OF NOTES ON THIS POINT, AND HAVE BEEN ASSURED THAT SUBSTANCE OF NOTES PRESENTS NO PROBLEMS. WE HAVE AGREED TO MODIFY LANGUAGE OF THE NOTES AS DESIRED BY FPD.

C) WE HAD HOPED NOTES COULD BE EXCHANGED BEFORE JUNE 18, WHICH WE UNDERSTAND IS THE DATE FOR FINAL PARLIAMENTARY ACTION ON THE TREATY. IF THIS CANNOT BE

CONFIDENTIAL

PAGE 02 BERN 02462 140927Z

DONE, WE HOPE THAT EXCHANGE WILL IN ANY EVENT BE AS SOON

AS POSSIBLE.

D) HE WISHED MAKE IT CLEAR THAT UNTIL NOTES ARE EXCHANGED WE CANNOT SEND THE TREATY TO SENATE FOR RATIFICATION IN ACCORDANCE WITH OUR CONSTITUTIONAL PROCEDURES.

E) HE HAD WITH HIM, AND WISHED TO LEAVE WITH FONMIN, A COPY OF NOTE REVISED AS REQUESTED BY FPD (BERN 2364, STATE 135535).

3. FONMIN, WITH SOME PROMPTING FROM HIS SUBORDINATES, REPLIED AS FOLLOWS:

A) MINISTER OF JUSTICE AND POLICE FURGLER WAS RESPONSIBLE FOR GUIDING TREATY AND IMPLEMENTING LEGISLATION THROUGH RATIFICATION PROCESS AND HE WOULD HAVE TO DECIDE IF NOTES COULD BE EXCHANGED BEFORE JUNE 18. SUBSTANCE OF NOTES PRESENTS NO PROBLEMS. HOWEVER, FOR REASONS ALREADY GIVEN EMBASSY BY FPD (BERN 2272), IT IS UNLIKELY THAT NECESSARY FEDERAL COUNCIL APPROVAL FOR EXCHANGE WOULD BE SOUGHT BEFORE JUNE 18.

B) ADDITIONAL COMPLICATION HAD NOW ARISEN IN THAT THERE ARE "DISCREPANCIES" BETWEEN TEXT OF IMPLEMENTING LEGISLATION AS PASSED BY LOWER HOUSE AND TEXT BEING PREPARED FOR CONSIDERATION BY UPPER HOUSE (BERN 2420). ALTHOUGH A JOINT COMMITTEE OF THE TWO HOUSES IS WORKING TO RECONCILE THE DISCREPANCIES, IT IS NOT EXPECTED THAT RECONCILIATION WILL BE ACHIEVED BEFORE JUNE 18. THEREFORE IT IS NOT EXPECTED THAT FINAL ACTION ON TREATY AND IMPLEMENTING LEGISLATION WILL BE TAKEN DURING THE CURRENT SESSION OF PARLIAMENT. HENCE, EXCHANGE OF NOTES WOULD PROBABLY NOT BE POSSIBLE BEFORE SEPTEMBER.

4. EMBASSY COMMENT

DESPITE FPD AND GRABER'S DISCLAIMERS, WE SUSPECT THAT MORE MAYBE INVOLVED HERE THAN TEXTUAL "DISCREPANCIES" OR "PROCEDURAL ACCIDENTS" (ANOTHER MULLER PHRASE). WE WILL ENDEAVOR PIN DOWN PRECISE NATURE OF "DISCREPANCIES" AND HOW MUCH SUBSTANCE MAY BE INVOLVED. SWISS POSITION ON PROPOSED EXCHANGE OF NOTES SEEMS TO HAVE SHIFTED OVER PAST THREE MONTHS FROM (A) ONE OF NO SUBSTANTIVE OR PROCEDURAL PROBLEMS TO (B) ONE OF POSSIBLE POLITICAL

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BERN 02462 140927Z

PROBLEMS AFFECTING TIMING OF EXCHANGE TO (C) ONE OF DISCREPANCIES IN TEXT OF IMPLEMENTING LEGISLATION NECESSITATING DELAY UNTIL SEPTEMBER.  
DOMINICK

CONFIDENTIAL

NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** AGREEMENTS, CONSULAR LEGAL ASSISTANCE  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 13 JUN 1975  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** ElyME  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1975BERN02462  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** GS  
**Errors:** N/A  
**Film Number:** D750208-0310  
**From:** BERN  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1975/newtext/t19750650/aaaabsvn.tel  
**Line Count:** 111  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ACTION EUR  
**Original Classification:** CONFIDENTIAL  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
**Previous Channel Indicators:** n/a  
**Previous Classification:** CONFIDENTIAL  
**Previous Handling Restrictions:** n/a  
**Reference:** 75 BERN 2420  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** ElyME  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 18 JUN 2003  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <18 JUN 2003 by BoyleJA>; APPROVED <04 NOV 2003 by ElyME>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
06 JUL 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** JUDICIAL ASSISTANCE TREATY  
**TAGS:** PFOR, CGEN, PGOV, SZ, US  
**To:** STATE  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006